



STATUS ALLOCATED  
LONDON

2004 MAY -4 PM 4:40

DEP 3 REF  
Room 307  
#4122 for  
MS 16  
PATENT  
3493-0109P  
Refund  
07-14-04

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: MAGNET, Serge Conf.: 9636  
Appl. No.: 09/782,562 Group: 1713  
Filed: February 13, 2001 Examiner: Hu, Henry S.  
For: UV RESISTANT RESIN FOR PARAFFINIC  
SOLVENT BASED PAINT  
ATTENTION: Refund Section  
Accounting Division  
OFFICE OF FINANCE

REQUEST FOR A REFUND

(Improper Fees Paid - PAYMENT OF PETITION FEE UNDER  
37 C.F.R. 1.181 FILED ON NOVEMBER 10, 2003

MS 16  
Director of the U.S. Patent  
and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

April 29, 2004

Sir:

This is a request for a refund with respect to a \$110.00 fee  
improperly paid on November 10, 2003 submitted in connection with  
the above-identified application.

The following documentation and remarks are respectfully  
submitted.

DOCUMENTATION

Attached hereto is:

☒ a copy of a Decision on Petition dated March 15, 2004

In the paragraph bridging pages 2 and 3 of the Decision, Ms  
Jacqueline Stone, Director of Technology Center 1700, indicate

Adjustment date: 07/29/2004 BHINES  
11/13/2003 AMONDAF1-00000021 09782562  
01 FC:1452 -110.00 OP

Repln. Ref 07/29/2004 BHINES 0006515900  
DHH:022448 Name/Number:09782562 \$110.00 CR  
FC: 9204

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STATE OF NEW YORK  
EDUCATION

Appl. No. 09/782,562


that the \$110.00 fee would be refunded by making a written request to the Office of Finance and enclosing a copy of the Decision.

Pursuant to the Director's instructions, applicants hereby request a refund in the amount of \$110.00 paid on November 10, 2003 to be applied to Applicants' deposit account no. 02-2448.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By   
Raymond C. Stewart, #21,066

  
RCS/GMD:bmp  
3493-0109P

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

Attachments

(Rev. 02/18/2004)



GMD

## UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

3493-109P

mm  
renewed  
Petition  
4-20-04

Mailed: MAR 15 2004

rvk  
Paper Number: 10

In re application of  
Serge Magnet  
Serial No. 09/782,562  
Filed: February 13, 2001  
For: UV RESISTANT RESIN FOR PARAFFINIC SOLVENT BASED PAINT :

:  
:  
DECISION ON  
:  
PETITION  
:

This is a response to the PETITION UNDER 37 C.F.R. §181 TO WITHDRAW THE HOLDING OF ABANDONMENT, filed November 10, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of September 11, 2003, for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed May 01, 2003 be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by applicant.

**DECISION**

The instant request is accepted as a timely petition under 37 C.F.R. § 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

A review of the petitioner's evidence indicates that the request cannot be granted. As set forth in MPEP 711.03(c) II- PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION :

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The showing required to establish the nonreceipt of an Office communication must include a statement from the practitioner stating that Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement. (emphasis added)

The evidence presented is insufficient to establish that the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowance was never received by the offices of THE GOODYEAR TIRE & RUBBER COMPANY (Akron Ohio), which was the addressee of record on May 01, 2003. This fact was verified by a communication between a representative of THE GOODYEAR TIRE & RUBBER COMPANY and a representative of ELIOKEM (the current assignee) on or before October 21, 2003.

However, the instant petition does not contain a statement attesting that a search of the file jacket and docket records was made, and the result of such search revealed that the Notice of Allowability and Notice of Allowance and Issue Fee Due of May 01, 2003 were not received and it fails to submit a copy of the docket record where the nonreceived Notice of Allowability and Notice of Allowance and Issue Fee Due would have been entered had it been received.

The instant petition was accompanied by \$110.00 as a petition fee. However, a petition of this type does not require a \$110.00 petition fee. Therefore, a refund of

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Technology Center 1700

the \$110.00 may be obtained by directing a copy of this decision along with a written request for such a refund to the Office of Finance.

Accordingly, this application stands abandoned.

The Petition is **DENIED**.

*J. Stone*

Jacqueline Stone, Director  
Technology Center 1700  
Chemical and Materials Engineering

BIRCH, STEWART, KOLASCH & BIRCH, LLP  
P.O. BOX 747  
FALLS CHURCH, VA 22040-0740

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